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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/641,866	08/18/2000	Charles E. Bernasconi	FDL0002	7547

27510 7590 12/20/2006  
KILPATRICK STOCKTON LLP  
607 14TH STREET, N.W.  
WASHINGTON, DC 20005

EXAMINER
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BLECK, CAROLYN M

ART UNIT	PAPER NUMBER
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3626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/20/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/641,866

Applicant(s)

BERNASCONI ET AL.

Examiner

Carolyn M. Bleck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 88-92 and 97-102 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 88-92 and 97-102 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Notice to Applicant***

1. This communication is in response to the amendment filed on 25 September 2006. Claims 88-92 and 97-102 are pending. Claims 91 and 100 has been amended.

***Claim Rejections - 35 USC § 112***

2. The rejections of claims 91 and 100 are hereby withdrawn due to the amendment filed on 25 September 2006.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 88-92, 97-100, and 102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. (6,334,133) in view of Mitsuoka et al. (6,466,914).

(A) Claims 88-90, 92, 97-99, and 102 have not been amended and are rejected for the same reasons given in the prior Office Action (May 24, 2006).

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(B) The amendments to claims 91 and 100 have been made to overcome the 112, 2<sup>nd</sup> paragraph rejections made in the previous Office Action. These amendments do not affect the manner in which the claim was interpreted by the Examiner when applying prior art within the previous Office Action. As such the recited claimed features are rejected for the same reasons given in the prior Office Action, and incorporated herein.

5. Claim 101 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. (6,334,133) in view of Mitsuoka et al. (6,466,914) as applied to claim 97, and further in view of Thomas et al. (6,301,574).

(A) Claim 101 has not been amended and are rejected for the same reasons given in the prior Office Action (May 24, 2006).

### ***Response to Arguments***

6. Applicant's arguments filed on 25 September 2006 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear in the response filed on 25 September 2006.

(A) At pages 5-7 of the response filed on 25 September 2006, Applicant argues that the prior art fails to teach "posting information about the specific open position to the web pages associated with each preferred temporary employee and the specific open position being specially marked."

In response, the Examiner respectfully submits that the combined teachings of Thompson and Mitsuoka teach Applicant's feature of "the specific open position being specially marked." Mitsuoka discloses a broker site accessed over the world wide web or internet, wherein when the contractor client has received a job offer notification, the contractor can access the broker site with the contractor client to check an offered job description on-screen and decide whether to apply for the job or not (Fig. 6, col. 1 lines 25-28, 39-46, col. 6 line 27 to col. 7 line 9, col. 7 line 65 to col. 8 line 5, col. 8 line 64 to col. 9 line 12). As per the recitation of "the specific open position being specially marked," the Examiner considers the job offer notification in Figure 6 to be a form of specially marking the specific open position.

The Examiner respectfully submits that Figure 6 and the other citations provided (col. 1 lines 25-28, 39-46, col. 6 line 27 to col. 7 line 9, col. 7 line 65 to col. 8 line 5, col. 8 line 64 to col. 9 line 12) teach a form of specially marking an open position. This interface in Figure 6 shows an open position for a job and it is "specially marked" because it is sent to the contractor based on a contractor's email address. The email also is targeted to a specific contractor in some embodiments based on the contractor's aptitude values, wherein the aptitude value is determined based on the results of jobs that have been contracted before, wherein a job provider evaluates the contractor's work as part of the aptitude value, wherein the job provider assigns a desired aptitude value for a contractor than then the job offer notification is sent out only to contractors who have at least the aptitude necessary for the job (col. 10 line 52 to col. 11 line 35,

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col. 11 lines 51-58, col. 13 lines 31-47, col. 14 lines 53-60). This is also a form of a "specially marked" open position.

It is further noted that Mitsuoka discloses notifying contractors of jobs through email using the broker (Fig. 1, col. 6 line 27 to col. 7 line 9). As per the recitation of "web pages associated with each preferred temporary employee," the Examiner respectfully submits that accessing the broker site by the contractor to view job offer notifications that are specific to the contractor based on the contractor's schedule or aptitude is considered to be a form of "web pages associated with each preferred temporary employee." It is also noted that there is no specific definition of what a "specially marked" open position is, and thus the Examiner has given this limitation the broadest reasonable interpretation. Thus, based on the teachings of Mitsuoka, the Examiner respectfully submits Applicant's claimed feature of a specific open position being specially marked is taught by the applied prior art.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (571) 272-6767. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached at (571) 272-6776.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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9. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

(571) 273-8300 [Official communications]

(571) 273-8300 [After Final communications labeled "Box AF"]

(571) 273-6767 [Informal/ Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand-delivered responses should be brought to the Knox Building, Alexandria, VA.



**Carolyn M. Bleck**  
**Patent Examiner**  
**Art Unit 3626**

**12/15/06**